

here, but also are prevented from entering this country in the first place.

Today's bill also repeals a 2006 sunset on several recent clarifications that were made to the material-support statute in order to address vagueness concerns expressed by some courts. At the September 13 Terrorism Subcommittee hearing, George Washington University law professor Jonathan Turley said of the original legislative proposal to clarify the statute: "[t]his proposal would actually improve the current federal law by correcting gaps and ambiguities that have led to recent judicial reversals. In that sense, the proposal can be viewed as a slight benefit to civil liberties by removing a dangerous level of ambiguity in the law."

There is no reason why this important provision, and other improvements to the material-support statute made in last year's 9/11 Commission bill, should be allowed to expire at the end of this Congress. This bill would make these improvements permanent.

I ask unanimous consent that the text of the bill and a section by section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Material Support to Terrorism Prohibition Improvements Act of 2005".

SEC. 2. REPEAL OF SUNSET ON 2004 MATERIAL-SUPPORT ENHANCEMENTS.

Section 6603(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (18 U.S.C. 2332b note) is repealed.

SEC. 3. BARRING ENTRY TO THE UNITED STATES FOR REPRESENTATIVES AND MEMBERS OF TERRORIST GROUPS AND ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST GROUPS.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) in subclause (IV), by amending item (aa) to read as follows:

"(aa) a terrorist organization as defined in clause (vi), or";

(B) by striking subclause (V) and inserting the following:

"(V) is a member of a terrorist organization—

"(aa) described in subclause (I) or (II) of clause (vi); or

"(bb) described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization.";

(C) in subclause (VI), by striking "or" at the end;

(D) in subclause (VII), by inserting "or" at the end; and

(E) by inserting after subclause (VII) the following:

"(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from, or on behalf of,

any organization that, at the time the training was received, was a terrorist organization,"; and

(2) in clause (vi), by striking "clause (i)(VI)" and inserting "subclauses (VI) and (VIII) of clause (i)".

SEC. 4. EXPANDED REMOVAL FROM THE UNITED STATES OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST GROUPS.

Section 237(a)(4)(E) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(E)) is amended to read as follows:

"(E) RECIPIENT OF MILITARY-TYPE TRAINING.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in section 212(a)(3)(B)(vi)), is deportable."

SEC. 5. BARRING ENTRY TO AND REMOVING TERRORIST ALIENS FROM THE UNITED STATES BASED ON PRE-ENACTMENT TERRORIST CONDUCT.

The amendments made by sections 3 and 4 of this Act shall apply to—

(1) all aliens subject to removal, deportation, or exclusion at any time; and

(2) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after the date of enactment of this Act.

SEC. 6. INCREASED PENALTIES FOR PROVIDING MATERIAL SUPPORT TO TERRORIST GROUPS.

(a) PROVIDING MATERIAL SUPPORT TO TERRORISTS.—Section 2339A(a) of title 18, United States Code, is amended by striking "imprisoned not more than 15 years," and all that follows through "life," and inserting "and imprisoned for not less than 5 years and not more than 25 years, and, if the death of any person results, shall be imprisoned for not less than 15 years or for life."

(b) PROVIDING MATERIAL SUPPORT OR RESOURCES TO DESIGNATED FOREIGN TERRORIST ORGANIZATIONS.—Section 2339B(a) of title 18, United States Code, is amended by striking "or imprisoned not more than 15 years," and all that follows through "life," and inserting "and imprisoned for not less than 5 years and not more than 25 years, and, if the death of any person results, shall be imprisoned for not less than 15 years or for life."

(c) RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.—Section 2339D of title 18, United States Code, is amended by striking "or imprisoned for ten years, or both," and inserting "and imprisoned for not less than 3 years and not more than 15 years."

Section 1. Bill Title. "Material Support to Terrorism Prohibition Improvements Act of 2005."

Section 2. Repeal of Sunset on 2004 Material-Support Enhancements. Section 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004 (the 9/11 Commission Act) includes important provisions that expand and clarify the material-support statutes (18 U.S.C. §§ 2339A & 2339B). These provisions clarify the definitions of the terms "personnel", "training", and "expert advice or assistance," in order to correct void-for-vagueness problems identified by the Ninth Circuit; expand the jurisdictional bases for material-support offenses; clarify the definition of "material support;" and clarify that the United States need only show that a defendant knew that the organization to which he gave material support either engaged in terrorism or was designated as a terror

group—thus overruling the Ninth Circuit's conclusion that the United States also must show that the defendant knew of the particular terrorist activity that caused an organization to be designated as a terror group. All of these changes are set to expire on December 31, 2006, pursuant to subsection 6603(g) of the 9/11 Commission Act. This section of this Act repeals subsection (g), making the 2004 material-support enhancements permanent.

Section 3. Barring Entry to the United States for Representatives and Members of Terrorist Groups and Aliens Who Have Received Military-Type Training from Terrorist Groups. This section bars entry to the United States for any alien who has received military-type training from a either a terrorist group that is designated as such by the Secretary of State, or from an undesignated terrorist group. (These groups are defined in 8 U.S.C. § 1182(a)(3)(B)(vi). An undesignated terrorist group is a group that commits or incites terrorist activity with the intent to cause serious bodily injury, prepares or plans terrorist activity, or gathers information on potential targets for terrorist activity.) This section would correct a deficiency in current law, which makes aliens who receive military-type terror training deportable but does not make them inadmissible. Aliens who receive training in violent activity from a terrorist group are not allowed to remain in the United States—they should not be permitted to enter the United States in the first place. This section also bars entry to the United States for aliens who are representatives or members of either designated or undesignated terrorist organizations, though members of undesignated terror groups may avoid exclusion if they can show by clear and convincing evidence that they did not know, and should not reasonably have known, that the organization to which they belonged was a terrorist organization.

Section 4. Expanded Removal from the United States of Aliens Who Have Received Military-Type Training from Terrorist Groups. Under current law, an alien is deportable if he has received military-type training from a terrorist group that is designated as such by the Secretary of State. See 8 U.S.C. § 1227(a)(4)(E). This section also makes deportable an alien who has received military-type training from an undesignated terrorist group. (See Section 3 above for definition of undesignated terror group.)

Section 5. Barring Entry to and Removing Terrorist Aliens from the United States Based on Pre-Enactment Terrorist Conduct. This section makes clear that the terrorist-alien deportation and exclusion provisions in sections 3 and 4 of this Act apply to terrorist activity that the alien engaged in before the enactment of this Act. Congress indisputably has the authority to bar and remove aliens from the United States based on past terrorist conduct. See *Lehmann v. U.S. ex rel. Carson*, 353 U.S. 685, 690 (1957) ("It seems to us indisputable, therefore, that Congress was legislating retrospectively, as it may do, to cover offenses of the kind here involved." (emphasis added; citations omitted)). Under this section, an alien who received military-type training from a terrorist group in Afghanistan in 2001 would be barred from entering or remaining in the United States.

Section 6. Increased Penalties for Providing Material Support to Terrorist Groups. Under current law, providing material support to a terrorist group is a criminal offense that is punishable by zero to 15 years' imprisonment, or zero to life if death results. Receiving military-type training from a terrorist group is punishable by zero to 10